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11/30/2011 03:29 PM

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Subject: Fw: Scranton Times-Tribune (11-30) Dimock families make legal appeal to keep water

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Dimock families make legal appeal to keep water
By Laura Legere (Staff Writer)Published: November 30, 2011

Lawyers for Dimock Twp. families with methane-tainted well water have asked a judge to stay a Department of Environmental Protection decision allowing deliveries of replacement fresh water to end today.

The families' last-minute push to prolong the water deliveries was supported by environmental groups that called the regulatory agency's decision "unlawful" in letters to DEP Secretary Michael Krancer.

It was opposed in legal filings to the Environmental Hearing Board by DEP and Cabot Oil and Gas Corp., the natural gas drilling company deemed responsible for the contamination and paying for the water deliveries. Both argued that the families' petition did not meet the legal requirements for an emergency injunction.

The families have relied on the delivered water for drinking and washing for nearly three years as regulators determined that faulty Cabot Marcellus Shale wells allowed methane to seep into their water supplies.

In October, DEP said Cabot could stop the water deliveries by Nov. 30 because the company had met the obligations described in a December 2010 settlement between the agency and the driller. The settlement required the company to offer to install methane-removal systems and fund escrow accounts with twice the tax-assessed value of each of the 19 affected homes, but did not require the company to restore the water to its

pre-drilling quality.

In their petition for an injunction, lawyers for 11 of the affected families said the department's settlement terms ignored state law, which requires drillers to permanently restore or replace water supplies contaminated by their operations.

With the lower standard set by the settlement, the DEP "has unilaterally, without notice or due process, rewritten the laws and environmental regulations of the Commonwealth," the lawyers wrote.

Cabot, which denies it caused the contamination, argued in a legal filing Monday that the families' appeal came too late, their well water is safe to drink and, even if it were not, the families could get their own fresh water delivered "at modest cost" or collect it for free from an artesian well in Montrose.

All tests of the families' well water by Cabot, the state, outside researchers and the families' contractors showed that their permanent water supplies meet federal primary drinking water standards, Cabot wrote.

The families' attorneys disagreed and included test results showing elevated levels of aluminum, barium, beryllium, iron, manganese and toluene as well as detectable levels of chemicals they said are associated with hydraulic fracturing of gas wells.

In a filing Tuesday, DEP asked the hearing board judge to dismiss the families' petition because the agency had not been given proper notice of the filing.

The judge, Bernard A. Labuskes Jr., had not made public a ruling on the petition as of Tuesday evening, according to the case's online docket.

Outside of the legal arena, the environmental groups, the Natural Resources Defense Council and the Pennsylvania chapter of the Sierra Club, rallied behind the Dimock families in letters sent last week and Monday to DEP Secretary Krancer.

"The contaminated water now sitting in the drinking water wells of Dimock residents does not meet the standards of the [state oil and gas law] or of the Department's own stringent regulatory standard," NRDC senior attorney Kate Sinding wrote. "The Department cannot, through private negotiations with a regulated party, ignore relevant Pennsylvania law."

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Read more: <http://thetimes-tribune.com/news/dimock-families-make-legal-appeal-to-keep-water-1.1239025#ixzz1fDpw2ixo>

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